

BOARD OF ENVIRONMENTAL PROTECTION
Meeting Minutes

April 21, 2011

A meeting of the Board of Environmental Protection was held on Thursday, April 21, 2011, at Civic Center, Augusta, Maine. Susan M. Lessard, Chair, called the meeting to order at 09:00 a.m. with the following individuals present:

Board: Elizabeth Ehrenfeld, M. Wing Goodale, Richard Gould, Susan M. Lessard, Paul Paydos, Matt Scott, Lissa Widoff, and Frank Woodard

Don Guimond and P. Andrews Nixon were absent.

Staff: Jim Brooks, Director Bureau of Air Quality
Richard Perkins, Bureau of Air Quality
Ronald Dyer, Director, Bureau of Remediation and Waste Management
Scott Austin, Bureau of Remediation and Waste Management
Colin Clark, Bureau of Land and Water Quality
Bryce Sproul, Bureau of Air Quality

Others: Patricia Aho, Deputy Commissioner
Cynthia S. Bertocci, BEP Executive Analyst
Jan McClintock, Assistant Attorney General
Terry Dawson, BEP Administrative Assistant

(Meeting adjourned at approximately 12:30 p.m.)

I. DEPARTMENTAL

- A. COMMISSIONER'S COMMENTS:** Deputy Commissioner Aho reported the following on behalf of Commissioner Brown:

Rumford Paper / New Page: The Department has been working on a multi-media license transfer of environmental permits associated with the mill's energy production unit. The transfer is from Rumford Paper to ReEnergy Holdings LLC. The Department categorizes this as a global transfer meaning that processing will be extensive and involve all program bureaus. It is anticipated that all transfers will be completed in May.

Energy: Stoneyvale Farms in Exeter is considering a development plan to construct an anaerobic digester. This would be the first operational non-dairy co-digestion biogas plant in Maine. They are working through details of the plans and it is anticipated that they may be submitting an application to the Department shortly.

Appeals: Deputy Commissioner Aho noted that a recent appeal of a license has received the attention of the press. The Department's permit allowing for the construction of the Oxford Casino was recently appealed to the Board. Additionally, the Department anticipates receiving a second appeal regarding permit approval to dredge a portion of the lower Kennebec River.

Earth Day: Tomorrow (April 22nd) is Earth day and it is also the Department's 40th anniversary.

- B. COMMENTS FROM THE BEP CHAIR:** None

- C. EXECUTIVE ANALYST COMMENTS:** None

- D. BOARD CALENDAR:** Reviewed and it was noted that the regular meetings for May are likely to be consolidated.

- E. DEPARTMENTAL ORDERS/ APPLICATIONS ACCEPTED FOR PROCESSING:** Reviewed.

- F. EXECUTIVE SESSION:** None

II. CONSENT AGENDA ITEMS:

The Board voted (6-0-2-2) to approve consent agenda item 1 as presented.

The vote was taken pursuant to 38 M.R.S. §341-D.

Board members Elizabeth Ehrenfeld, M. Wing Goodale, Richard Gould, Susan M. Lessard, Paul Paydos, and Frank Woodard voted to support the motion. Board members Matt Scott and Lissa Widoff abstained. Board members Don Guimond and P. Andrews Nixon were absent.

1. BEP MINUTES – March 3, 2011 – Administrative Consent Agreement (BAQ)

The Board voted (8-0-0-2) to approve consent agenda items 2, 3, 4, and 5 as presented.

The vote was taken pursuant to 38 M.R.S. §341-D(6).

Board members Elizabeth Ehrenfeld, M. Wing Goodale, Richard Gould, Susan M. Lessard, Paul Paydos, Matt Scott, Lissa Widoff, and Frank Woodard voted to support the motion. Board members Don Guimond and P. Andrews Nixon were absent.

2. BORALEX LIVERMORE FALLS LP and BORALEX ASHLAND LP, Livermore Falls and Ashland – Administrative Consent Agreement (BAQ)
3. KATHLEEN LITTLEFIELD and THE MODULAR ADVANTAGE, Harpswell – Administrative Consent Agreement (BLWQ - Land)
4. GEORGE CONRADES, PATSY CONRADES and MUSCLE RIDGE PURCHASE TRUST, South Thomaston - Administrative Consent Agreement (BLWQ – Land)
5. PARSONS KITCHENS, INC., Brownfield – Administrative Consent Agreement (BRWM)

II. Regular Agenda

1. CHAPTER 117, SOURCE SURVEILLANCE – EMISSIONS MONITORING / REPEAL AND REPLACE (adoption)

Staff: Jim Brooks and Richard Perkins, Bureau of Air Quality

The Board voted (8-0-0-2) on a motion to adopt the repeal and replacement of Chapter 117 Source Surveillance, Emissions Monitoring. Revisions to this regulation update, clarify and standardize procedural protocols for continuous emissions monitoring (CEM) consistent with federal regulation and also update the standards enabling owners and operators to better analyze and quantify emissions using the newer monitoring technology. The new language may require installation of replacement continuous emission monitors that are deemed inoperable for more than 10% of the time over four calendar quarters. The vote included modifications as follows:

Page 6. Section 2: Definitions

Section AB. Unavoidable malfunction. “Unavoidable malfunction” means a malfunction ~~resulting from the failure of one or more of the following CEMS components,~~ which results....

The vote was taken pursuant to 38 M.R.S. Sections 341-D(1-B), Section 585-A, Section 590 and 40 CFR Part 60, 61 and 63 of the Code of Federal Regulations.

Board members Elizabeth Ehrenfeld, M. Wing Goodale, Richard Gould, Susan M. Lessard, Paul Paydos, Matt Scott, Lissa Widoff, and Frank Woodard voted to support the motion. Board members Don Guimond and P. Andrews Nixon were absent.

2. CHAPTER 900, BIOMEDICAL WASTE MANAGEMENT RULES – SECTION 7 DEFINITIONS OF BIOMEDICAL WASTE and SECTION 18 STANDARDS FOR TREATMENT FACILITIES / AMENDMENT (post to 30-day written comment)

Staff: Ron Dyer and Scott Austin, Bureau of Remediation and Waste Management

The Board voted (5-3-0-2) on a motion to post to 30-day written comment amendments to Section 7, Definition of Biomedical Waste and Section 18 Standards for Treatment Facilities which would allow for the disposal of sharps without requiring shredding. The Board

requested that the Department make extra effort to provide notice to a wide range of entities that may be regulated by the rule but which may be unaware of that fact (including educational institutions and research laboratories) and to solicit comment on the proper management of discarded cultures and stocks of infectious agents as identified in Section 7A(5) of the rule.

The vote was taken pursuant to 38 M.R.S. § 341-D(1-B), and §1319-O(3).

Board members Richard Gould, Susan M. Lessard, Paul Paydos, Matt Scott, and Lissa Widoff voted to support the motion. Board members Elizabeth Ehrenfeld, M. Wing Goodale and Frank Woodard voted opposed. Board members Don Guimond and P. Andrews Nixon were absent.

3. BOB and KATHY PRATT – PERMIT BY RULE #49587 FOOTBRIDGE (petition to revoke, modify or suspend submitted by Richard Hurlbert and Audrey McGlashan)

Staff: Colin Clark, Bureau of Land and Water Quality

The Board voted (8-0-0-2) on a motion to dismiss the petition seeking to revoke the permit-by-rule approval for the construction of a footbridge to allow access to shore by the Pratts. The vote affirms the Commissioner's decision and approved the draft proposed Board Order finding that the petition did not demonstrate a sufficient basis to warrant a hearing.

The vote was taken pursuant to 38 M.R.S. § 341-D(3), 06-096 CMR Chapter 2, Rules Concerning the Processing of Applications and other Administrative Matters, and Chapter 305 Permit-By-Rule.

Board members Elizabeth Ehrenfeld, M. Wing Goodale, Richard Gould, Susan M. Lessard, Paul Paydos, Matt Scott, Lissa Widoff, and Frank Woodard voted to support the motion. Board members Don Guimond and P. Andrews Nixon were absent.

4. BERWICK IRON & METAL RECYCLING, INC. – AIR EMISSIONS PERMIT DEPARTMENT ORDER A-001041-71-A-N (petition to revoke, modify or suspend submitted by Jeanette & Doug Seivwright, Robert & Donna Duffy, Tom & Carol Planche and Joyce & Raymond Provencher)

Staff: Bryce Sproul, Bureau of Air Quality

The Board voted (8-0-0-2) on a motion to dismiss the petition to revoke, modify or suspend the Commissioner's approval for a minor source air emission permit A-001041-71-A-N for construction and operation of a 3600 horsepower diesel engine and metal shredder at the Berwick facility. The vote affirmed the Commissioner's decision and approved the draft proposed Board Order as presented.

The vote was taken pursuant to 38 M.R.S. § 341-D(3), 06-096 CMR Chapter 2, Rules Concerning the Processing of Applications and Other Administrative Matters, Chapter 115 Major and Minor Source Air Emission License Regulations.

Board members Elizabeth Ehrenfeld, M. Wing Goodale, Richard Gould, Susan M. Lessard, Paul Paydos, Matt Scott, Lissa Widoff, and Frank Woodard voted to support the motion. Board members Don Guimond and P. Andrews Nixon were absent.

Next Regular Meeting –Thursday, May 19, 2010 – Civic Center, Augusta